

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PAUL CASALE, et al.,

Plaintiffs,

-against-

RAYMOND W. KELLY, Commissioner of the  
New York City Police Department (NYPD); et al.,

08-CV-2173 (SAS)

**STIPULATION AND  
PROTECTIVE ORDER**

Defendants.  
-----X

WHEREAS, Plaintiffs have sought certain sealed documents in this action;

WHEREAS, these documents were sealed by operation of New York State law;

WHEREAS, these documents have been unsealed on consent for the purposes of this  
action by separate Order of this Court,

WHEREAS, Defendants object to the production of those documents unless  
appropriate protection for their confidentiality is assured;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED as follows:

1. As used herein, "Confidential Materials" shall mean any sealed records of arrests  
and/or criminal prosecutions pertaining to individuals who were arrested, summonsed, and/or  
charged with New York Penal Law §§ 240.35(3) and/or (7) and where the charges against said  
individuals were (a) dismissed and sealed pursuant to N.Y.C.P.L. § 160.50; or (b) sealed as non-  
criminal dispositions under N.Y.C.P.L. § 160.55, that are provided at any time by defendants in  
response to document requests for such materials by plaintiffs.

2. The parties and their attorneys shall not use the Confidential Materials for any purpose other than for the preparation or presentation of the parties' cases or defenses in the above-captioned action.

3. The parties' attorneys shall not disclose the Confidential Materials to any person not a member of the staff of the parties' attorneys' offices, except under the following conditions:

- a. Disclosure may be made only if necessary to the preparation or presentation of the parties' case or defense in this action.
- b. Disclosure before trial may be made only to a party; to the person named in the records who was arrested, summonsed, charged, or prosecuted for N.Y.P.L. §§ 240.35(3) and or (7); to an expert who has been retained or specially employed by the parties' attorneys in anticipation of litigation or preparation for this action; to a witness at deposition; or to the Court.
- c. Before any disclosure is made to a person listed in subparagraph (b) above (other than to the Court), the attorneys disclosing the Confidential Materials shall provide each such person with a copy of this Stipulation and Protective Order, and such person shall consent in writing, in the form annexed hereto as Exhibit A, not to use the Confidential Materials for any purpose other than in connection with the prosecution or defense of this case and not to further disclose the Confidential Materials except in testimony taken in this case. The signed consent shall be retained by the attorneys disclosing the Confidential Materials and a copy shall be furnished to opposing attorneys upon their request.

4. Deposition testimony concerning any Confidential Materials which reveals the contents of such materials shall be deemed confidential by all parties, and the transcript of such testimony, together with any exhibits referred to therein, shall be separately bound with a cover page prominently marked "CONFIDENTIAL." Such portion of the transcript shall be deemed to be Confidential Materials within the meaning of this Stipulation and Protective Order.

5. If any paper which incorporates any Confidential Materials or reveals the contents thereof is filed in this Court, those portions of the papers shall be delivered to the Court enclosed in a sealed envelope bearing the caption of this action, an indication of the nature of the contents, and the following legend:

**CONFIDENTIAL**

This envelope contains documents or information designated confidential pursuant to an order entered by the United States District Court for the Southern District of New York in the above-captioned action. This envelope shall not be opened or unsealed without the express direction of a judge of this Court, and its contents shall not be displayed or revealed except as the Court may order. This envelope and its contents shall at all times be maintained separate and apart from the publicly available files of this case.

6. Within 30 days after the termination of this case, including any appeals, the Confidential Materials shall either be returned to Defendants' attorneys or destroyed. Plaintiffs' attorneys shall verify the return or destruction of the Confidential Materials by affidavit furnished to Defendants' attorneys.

7. Notwithstanding the provisions of this Protective Order, if plaintiffs, plaintiffs' attorneys or anyone on plaintiffs' behalf ("plaintiffs or plaintiffs' representatives") make any contentions, representations, and/or written or oral statements, that are outside of the proceedings in this action, the substance of which concerns the Confidential Materials, defendants or defendants' attorneys may move the Court on an expedited basis for relief.

8. Nothing in this protective order shall limit the now permitted uses of the Confidential Materials.

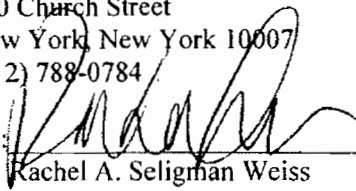
9. The parties may seek modification of the Stipulation and Protective Order and the parties may seek review of confidentiality designations under this Order by application to the Court at any time during the course of this litigation.

Dated: New York, New York  
April 23, 2008

Attorneys for Defendants:

MICHAEL A. CARDOZO  
Corporation Counsel of the City  
of New York  
100 Church Street  
New York, New York 10007  
(212) 788-0784

By:

  
Rachel A. Seligman Weiss  
Assistant Corporation Counsel

Attorneys for Plaintiffs:

EMERY CELLI BRINCKERHOFF  
& ABADY LLP  
75 Rockefeller Plaza, 20th Floor  
New York, New York 10019  
(212) 763-5000

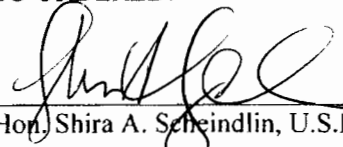
By:

  
Katherine Rosenfeld

THE BRONX DEFENDERS  
J. McGregor Smyth, Jr.  
862 Courtland Avenue  
Bronx, New York 10451  
(718) 838-7878

EARL J. WARD – ATTORNEY AT LAW  
Earl J. Ward  
75 Rockefeller Plaza, 20<sup>th</sup> Floor  
New York, New York 10019  
(212) 763-5000

SO ORDERED:

  
Hon. Shira A. Scheindlin, U.S.D.J.

**EXHIBIT A**

The undersigned hereby acknowledges that he/she has read the Stipulation and Protective Order entered in the United States District Court for the Southern District of New York in the action entitled Casale, et al. v. Kelly, 08 Civ. 2173 (SAS), and understands the terms thereof. The undersigned agrees not to use the Confidential Materials defined therein for any purpose other than in connection with the prosecution or defense of this case, and will not disclose the Confidential Materials except in testimony taken in this case.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Occupation